

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

CITY OF MADISON, WI,

Plaintiff,

Case No. 15-CV-00101

v.

UBER TECHNOLOGIES, INC.

Defendant.

**EXPEDITED MOTION OF DEFENDANT UBER TECHNOLOGIES, INC.
TO EXTEND THE TIME TO RESPOND TO THE COMPLAINT**

Defendant Uber Technologies, Inc. (“Uber”), by counsel, hereby moves this Court for an Order to extend the deadline to respond to the complaint of Plaintiff City of Madison, WI, (the “City”) in the above-captioned matter, pending the resolution of the proper forum for this dispute.

In support of this Expedited Motion, Uber states as follows:

1. The City filed a complaint against Uber in the Municipal Court of Madison, Wisconsin, (Case No. 15-MOR-568, the “State Court Action”) on January 22, 2015.

2. The City purported to serve the summons and complaint in the State Court Action on Uber via U.S. mail on January 21, 2015, not by serving the agent of process for Uber’s subsidiary in the State, or by personal service, but by mailing an envelope containing the complaint to the front desk of an office where Uber’s subsidiary maintains a desk in a shared office with numerous other companies and individuals in Madison. It was not for a significant amount of time

that Uber was given the envelope containing the complaint by another company sharing the office space.

3. Uber filed a Notice of Removal of the State Court Action with this Court on February 13, 2015 (ECF No. 1).

4. Uber did not answer the State Court Action prior to removal.

5. Unless the Court orders repleading or otherwise, Uber must answer the City's complaint from the State Court Action or present other defenses or objections with this Court by February 20, 2015. Fed. R. Civ. P. 81(c)(2).

6. Prior to answering the complaint, Uber intends to file one or more motions to dismiss pursuant to Federal Rule of Civil Procedure 12.

7. The City has until March 16, 2015, to file a motion to remand the case under 28 U.S.C. § 1447(c), should the City choose to do so, as Uber believes it will.

8. Once a case has been removed to federal court, motions to remand should be decided before motions to dismiss. *See, e.g., Int'l Primate Prot. League v. Administrators of Tulane Educ. Fund*, 500 U.S. 72, 87 (1992) ("Since the district court had no original jurisdiction over this case, a finding that removal was improper deprives that court of subject matter jurisdiction and obliges a remand"); *see also Smith v. Wisconsin Dep't of Agric., Trade & Consumer Prot.*, 23 F.3d 1134, 1139 n. 10 (7th Cir. 1994) ("the point of § 1447(c) is that a federal court does not have the authority to dismiss a claim over which it never had jurisdiction in the first instance").

9. Following removal on February 13, Counsel for Uber has made multiple attempts to confer with counsel for the City, hoping to reach an agreement that any remand issues should be decided before the parties engage in motion practice relating to the merits of the case. Counsel

for Uber understands that the City Attorney has been out of the office since February 13 and the Assistant City Attorney indicated that she does not have authority to agree to the brief extension requested by this Expedited Motion. As a result, no agreement could be reached in advance of the filing of this Expedited Motion.

WHEREFORE, Uber respectfully requests that this Court enter an Order extending the deadline for when Uber must answer or present other defenses or objections to the City's complaint to either: 1) March 30, 2015, should the City decline to file a motion to remand; or 2) 30 days after the entry of an Order by this Court denying the City's motion to remand, should the City file a motion to remand.

Dated February 19, 2015.

Respectfully submitted,

HALLING & CAYO, S.C.

By: /s/Michael Schaalman

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was filed electronically with the Clerk of the Court to be served via operation of the Court's electronic filing system this 19th day of February, 2015, as well as by U.S. mail, first class postage prepaid, to the following:

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/s/ Michael Schaalman
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